



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

DISCUSSION

JAMES PARKER HALL, University of Chicago Law School: As suggested in Professor Gilmore's excellent paper, I think it more important that lawyers should have some training in economics than that economists should know much about law, desirable as both may be; because experience has demonstrated that the impact of novel economic ideas upon well-established rules of law is quite innocuous, while the economic notions of lawyers and judges are very likely to be translated into the decisions of courts. However, it is the value of law to the economist that we are discussing, and so, with this *caveat*, I shall confine myself to that topic.

If we are speaking of the training of candidates for the Ph.D. in economics, the question of time is of course a serious one. No reliable knowledge of even the simpler elements of our legal system can be gained in less than a year of work, and to devote to the study of law so large a fraction of the time usually spent in obtaining a doctorate would doubtless be thought quite impossible. By the creation of courses especially organized for this purpose, however, it is perhaps possible, within a practicable period, to give to advanced students of economics some notion of how our legal system operates, how, and within what limits, courts may properly make or change rules of law, and to enable them to read and criticize legal decisions with some understanding of the considerations pro and con that may legitimately influence judicial opinion. This would be a marked gain, if only as tending to bring about a more mutually tolerant attitude between two groups of specialists in the study of social institutions who badly need each other's help.

I think we need not be concerned over the discovery by investigators that 75 per cent of the elements that insure success in the field of engineering are not touched upon in our technical schools. So far as such judgments are susceptible of mathematical expression, doubtless similar figures could be shown in all of the other professions that deal with human nature and the practical affairs of life. By the doctor and the lawyer, as by the engineer, the major credit for a marked professional success must usually be ascribed to character, judgment of affairs, judgment of men, and ability to influence and dominate men, rather than to mere technical proficiency, however great; but this is only to say in concrete terms what abstractly we all admit—that, though a good education is an incomparable tool, yet it is only a tool, and that its successful use must depend upon the character and judgment of the user. At the age at which students come to our professional schools character is already pretty well fashioned, and judgment is trained by the experience of life rather than by laboratories and books. Even were it otherwise in these regards, our educational processes would be quite without direct effect upon those prenatal heritages which are very possibly more important than all else in the making of a man. So I think we shall do well as yet not to institute seminars for the development of personality, even though this be the greatest of all of our aspirations.

Whatever may be possible, however, as regards giving some legal training to students in economics, I am greatly impressed by the need of more intimate co-operation between lawyers and economists of mature powers, particularly between college departments of economics and law—and when I say economics I mean all of the social sciences as well. Owing to the historical circumstance that the study of law in American universities has developed under faculties separate from those of the so-called academic studies, there has been some failure on both sides to recognize its kinship with other human institutions that are studied in our social-science groups. Yet law is far more closely related to every member of this group than are the physical and biological sciences, mathematics, or languages, which, however, because the academic faculty is commonly one of arts, literature, and science, are in practice readily integrated with the social group in the education of any student whose practical needs require such a combination. The practice of permitting the first year of law to be counted as the fourth college year is now fairly common, but it is often accompanied by conditions and limitations not applicable to other work in the social sciences similarly taken in the fourth college year. Unless one takes the view that no substantial part of a four-year college course should consist of professional or vocational work—a position now generally abandoned—it is difficult to see how the interests of students can be served by not treating such amount of law as may be counted toward a college degree exactly as other work in the social sciences is treated. If this were generally done, prospective graduate students in economics could be encouraged to take enough law in their Senior year in college to get the elementary legal training needed by them as economists, and none of the graduate period need be spent in this way. Whether, as a matter of administrative convenience, or of professional *esprit de corps*, or of general usage, law schools should be organized under separate faculties or under departments of the academic faculties is a question to be settled on considerations pertinent to these inquiries, but none of them has any real bearing on the educational question of permitting a certain amount of law work to be taken by students as a free elective toward a college degree upon the same terms as any other elective.

But more important than this co-operation for the immediate advantage of students seems to me the need for better teamwork between faculties of law and of the other social sciences upon our common problems. The larger problems of industrial society, like those of the physical sciences, are too intricate to be adequately worked out by specialists in any single field. In recent years we have had a striking illustration of the advantages of combined and systematic research upon a large scientific problem, in the work done at the University in investigating the origin of the earth. The geological, physical, chemical, mathematical, and astronomical aspects of the problem were attacked simultaneously by separate groups of experts working under a single general direction, and the results achieved have been far more valuable and persuasive than could have been obtained by any single line of investigation.

Similarly, there are a variety of practical problems before us today in which the political, economic, social, and legal elements are so interwoven that no one can be adequately considered save in relation to the others, and the whole field is too wide to be covered properly by any single group of experts. Various suggested changes in our forms of government, the regulation of competition, the control of public utilities, the fixing of wages by law, forms of social insurance, the management of defectives and of criminals, may be mentioned as illustrations of the variety and importance of these problems. The gain from intelligent co-operation in dealing with them would be immense, and today it is surely not too much to hope for this.

It is perhaps true that in the past teachers of law and of the other social sciences have not thought any too well of each other's views upon topics where their fields have overlapped. The lawyer has often thought the economist's legal views foolish, and the economist has thought the lawyer's economic notions bigoted, and mutual understanding and tolerance have not been any the easier for the fact that there was a good deal of truth in both of these opinions. But the events of recent years have convinced the more judicious in all groups that co-operation can bring forth fruits denied to mere criticism, and for the future I think we may confidently expect—greatly to the advantage of the public—an increasing number of such united efforts as have, for instance, marked the work of the American Association for Labor Legislation. For that we may all do something to speed the day.

HERMAN OLIPHANT, University of Chicago Law School: As a lawyer, I am interested more in ways and means of giving law students more economics than in ways and means of giving graduate students in economics more law, but I venture to express an opinion on the latter, since they were emphasized in Professor Gilmore's excellent paper, and since what I say comes from the experience I have had in business law in the School of Commerce, a field more or less allied to economics.

I feel that whether graduate students in economics should have more work in law is as far from being an open question any longer as is whether law students should have more economics, not only before but after they have had some work in law. The problem of making more work in law possible for students of economics is therefore one of immediate importance and the discussion of ways and means seems timely.

As the work is now arranged, it looks to me futile to talk of being able to give a satisfactory knowledge of the law by devoting so much as two or even three semesters of a graduate student's time entirely to law work. We are driven to consider such a proposition largely by the present inaccessibility of second- and third-year law courses to other than law students. The way out, therefore, is to find how to render those and all other law courses accessible with the least expenditure of time possible, favoring that plan which has the greatest number of collateral advantages.

This inaccessibility consists of two things: (1) the student is not familiar with the law-school methods of study, particularly the reading and close criticism of cases; (2) he is not grounded in the fundamental doctrines and notions of the basic law courses, viz., contracts, agency, property, and torts. To get the latter he must now thresh through great masses of legal details, well worth the law student's while but not his.

I believe that from the standpoint of practical administration the best way to remedy these two defects is to be found in a modification of our courses in business law. If the burden of the legal training of graduate students in economics should not be borne entirely by the law school, the department of economics and the school of commerce can do their part by giving a course in law taught by a lawyer in sympathy with, and well grounded in, the case method, using only cases as a basis of study and using them as zealously as they are used in the law school. Such a course should include only matter found in contracts, agency, property, and torts, and, further, the portions of these subjects covered should be rigorously limited so as never to sacrifice depth to latitude. I do not have in mind a course in the elements of law which, of necessity, deals only in a general way with legal sources and concepts, but a course, so far as it goes, as concrete in subject-matter as any of our law-school courses.

Such a course need not occupy more than two hours weekly for a year. It would make immediately available to the graduate student in economics all the resources of the law school. By properly choosing among the regular law courses he would be able to master the legal aspects of the subject of his thesis most thoroughly and to get a most satisfactory general legal background. In the meantime he would have improved his thinking by possessing himself of the cutting edge of legal methods. By these means his total expenditure of time upon law would not exceed that indicated by its relative importance to him.

Out of such an arrangement there should grow new courses in the law school in some of the now neglected fields of law which border on economics.

Such a course as I have described would be equally useful in the school of commerce. It would serve as an introduction to the study of business law. I am convinced that if business law is to be worthy of a place in a university and is to cease to be a dilution of a real law course so great as to have but slight physiological effect, the work must be done with the thoroughness possible under a plan in which we divide business law into two parts: (1) an introductory course, such as I have described; (2) advanced courses, consisting of appropriate courses now given in the law school and new law courses maintained by the school of commerce, but taught by a lawyer who knows business. Materials for such new courses are at hand in those fields of the law of such marked business importance as the relation of employer and employee, contracts and combinations in restraint of trade, price maintenance, and the like. A necessary saving of commerce students' time can be made by offering new law courses in the law of business associations and of commercial contracts. The name of the former indicates its content. In the latter should be included negotiable contracts, contracts of sale and suretyship contracts.